Some Technologies You Can't Afford To Ignore

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Still listening to CDs instead of downloading the latest songs to your iPod? That's okay. Do you shun Blackberries and other smartphones? No big deal. Sometimes, no matter how great everyone tells us the latest technology is, we find it more comfortable or preferable to stick with what we know. If you own or manage a business, however, there are some advances in technology that you simply cannot afford to ignore. If you are still not paying attention to the activities of employees on social networking sites such as MySpace and Facebook, you may be subjecting your company to unnecessary legal risks. You must be aware (to the extent possible and legal) what potential, current, and even former employees do or say about you and your company on the internet. No problem, you say. You have read about employee blogs before. Maybe you have even instituted a blogging policy at your workplace. But, are you really keeping up? Do you know whether your employees are tweeting at work? Tweeting is the act of posting the mundane details of everyday life, including what is happening at work, through the social networking site Twitter. The posts, while small (140 characters or less), are typically more frequent and are designed to attract readers (or "followers"). Think "going to Chili's for lunch - yum!" or "idiot boss making me work late again." The posts may also contain links to websites or longer blog entries.

Recent studies have shown that the use of Twitter is skyrocketing. According to Nielsen Online, there were seven million unique visitors to the site this past February. Moreover, most Twitter users report that they have visited the site during work time. And, not just on computers, but on PDAs and smartphones as well. So, what's the big deal? Nothing, unless you are worried about employees accidentally disclosing confidential information, harassing other employees, embarrassing your company, committing defamation on work time, or any other of a myriad of problems that can arise when technology surpasses our expectations of typical workplace communications.

There are three main time periods when you want to be concerned with what employees are saying about you or your company on the internet: pre-employment, employment, and post-employment. In other words, always. Many employers already check the web for information regarding applicants. Periodic perusing of the internet may also help you ensure that current employees are not getting you into hot water. In addition, if you don't already have a social networking / blogging policy, consider adding one to supplement your computer use policy. There are a number of ways to craft such a policy. In general, however, it should include:

1. a prohibition against posting, blogging, tweeting, or otherwise using social networking sites on work time for non-work purposes;
2. a prohibition against using the company's (or a client's) name, identifying marks, or confidential information on such sites without permission; and
3. a statement discouraging the posting of negative comments about the company, co-workers, clients, and competitors.

It may also be a good idea to include a statement indicating that the company acknowledges that social networking sites are increasingly popular methods of communication, and that they have many legitimate and beneficial uses, while at the same time advising employees that the company, as always, prohibits inappropriate workplace conduct. If you already have such a policy, consider updating it anytime you notice new trends, such as tweeting, taking hold.

When it comes to former employees, and particularly those that have filed, or that you expect will file, a discrimination or other lawsuit against you, it may be a good idea to see if they have posted any relevant information on the internet. Any public posting is fair game. And, if you think videos of former employees discussing the exact circumstances of their employment termination have not turned up on YouTube, think again. Don't forget to let your lawyer know you have located such information. It may yield tremendous dividends in any post-employment litigation. In addition, don't be surprised when one of the first topics your lawyer covers during the former employee's deposition is their online activity. And, if he doesn't do that, you can remind him. Because this is one area of technology that you're not going to let pass you by.